



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

[REDACTED]

PRELIMINARY RECITALS

Pursuant to a petition filed October 08, 2015, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Shawano County Department of Social Services in regard to FoodShare benefits (FS), a telephone hearing was held on December 15, 2015.

The issue for determination is whether the respondent correctly increased petitioner's FS allotment following a change in income.

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: [REDACTED]
Shawano County Department of Social Services
607 E. Elizabeth Street
Shawano, WI 54166-3105

ADMINISTRATIVE LAW JUDGE:

Peter McCombs
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Shawano County.
2. Petitioner's Unemployment benefits ended in June, 2015.
3. Respondent processed a change in petitioner's income on July 6, 2015, which resulted in an FS allotment change (increase) effective August, 2015.



DISCUSSION

FoodShare rules hold that “[a]ll reported changes that cause an increase in the FS benefit...will be effective the first of the month following the report month.” *FoodShare Wisconsin Handbook*, § 6.1.3.3.; see also, 7 CFR 273.12(c)(1). The petitioner argued that she reported the change in a telephone call to the respondent in June, 2015. The respondent contends that the petitioner did not report the end of her Unemployment benefits until July 6, 2015.

The county agency has the burden of proof to establish a prima facie case that it correctly and properly changed petitioner’s FoodShare benefits effective August, 2015, as opposed to July, 2015. The county agency has failed to present any reliable evidence or direct testimony to support that it properly and correctly refused to backdate the increase in petitioner’s FoodShare benefits effective July, 2015. The respondent was unable to present any non-hearsay evidence to establish that it correctly processed the petitioner’s change report in July, as opposed to June. The petitioner, conversely, testified that she contacted the respondent in June, 2015, to report the end of her Unemployment benefits. The respondent was unable to counter this testimony. Accordingly, for the above reasons, I conclude that the county agency has failed to meet its burden of proof to establish a prima facie case that it correctly and properly increased petitioner’s FoodShare benefits in August, as opposed to July, 2015.

CONCLUSIONS OF LAW

The county agency has failed to meet its burden of proof to establish a prima facie case that it correctly and properly increased petitioner’s FoodShare benefits in August, as opposed to July, 2015.

NOW, THEREFORE, it is

ORDERED

The matter is remanded to the respondent with instructions to re-determine petitioner’s FoodShare allotment for July, 2015, based upon a change report received in June, 2015. All actions required by this Order shall be completed within 10 days of the date of this Decision.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

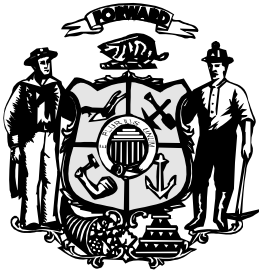
APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as “PARTIES IN INTEREST” **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,
Wisconsin, this 29th day of December, 2015

\sPeter McCombs
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on December 29, 2015.

Shawano County Department of Social Services
Division of Health Care Access and Accountability